

REMARKS

Introductory Comments:

Claims 41-44, 46, 47 and 52-57 were examined in the Office Action under reply. Claims 41-44, 52, 53, 55 and 56 were indicated as allowed and claims 46, 47, 54 and 57 were rejected under 35 U.S.C. §112, first paragraph. The rejection is respectfully traversed for reasons discussed below.

Overview of the Above Amendments:

The specification has been amended to incorporate a substitute Sequence Listing and to refer to the subparts of the figures in the formal drawings being submitted herewith.

Additionally, sequence identifiers have been inserted into the paragraphs beginning at page 30, lines 20 and 25, respectively, as requested by the Examiner.

Claims 46, 47, 54 and 57 have been canceled. Cancellation of these claims is made without intent to abandon any originally claimed subject matter, and without intent to acquiesce in any rejection of record. Applicants expressly reserve their right to bring the claims again in a subsequent, related application.

Rejection Under 35 U.S.C. §112, First Paragraph:

Claims 46, 47, 54 and 57 were rejected under 35 U.S.C. §112, first paragraph as “containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.” Office Action, page 2. The Office correctly notes that the designation “Xaa” in the 31-mer consensus sequence claimed represents any amino acid residue. Claim 54 (and claims 46, 47 and 57 dependent thereon) recites particular residues for the Xaa positions in SEQ ID NO:8. However, the Office argues “the sequence disclosed in claim 54 would encompass various sequences not found in the nonconsensus sequences disclosed in Figure 2-1, because said nonconsensus sequences disclose particular sequences with particular amino acids found in combination with other amino acids.” Office Action, pages 2-3, bridging paragraph. Applicants disagree and submit that the recitations in claim 54 are indeed supported in the application as filed.

There is no *in haec verba* requirement in order to comply with the mandates of 35 U.S.C. §112, first paragraph. See, e.g., *Vas Cath Inc. v. Mahurkar*, 19 USPQ2d 1111, 1116 (Fed. Cir. 1991); *Martin v. Johnson*, 172 USPQ 391, 995 (CCPA 1972), stating: "the description need not be in *ipsis verbis* (i.e., "in the same words") to be sufficient." Thus, newly added claim limitations may be supported in the specification through express, implicit or inherent disclosure. As the Office acknowledges, ":" or "Xaa" in SEQ ID NO:8 represents any amino acid. The recited amino acids at the Xaa positions in claim 54 are therefore implicitly described as they are all conventional amino acids. Nevertheless, in an effort to advance prosecution, claims 46, 47, 54 and 57 have been canceled. Withdrawal of this basis for rejection is therefore respectfully requested.

Objection Under 35 U.S.C. §132:

The Amendment filed August 23, 2002 was objected to under 35 U.S.C. §132 as allegedly introducing new matter into the disclosure. In particular, the Office objects to SEQ ID NO:135 added in the Sequence Listing submitted with the previous Amendment for the reasons detailed in the rejection under 35 U.S.C. §112, first paragraph. SEQ ID NO:135 corresponds to the sequence claimed in canceled claim 54. As explained above, the recited amino acids at the Xaa positions in SEQ ID NO:135 are described in the application as filed. Nevertheless, in an effort to advance prosecution, applicants are providing a new Sequence Listing that does not include SEQ ID NO:135. Thus, this basis for objection no longer applies and withdrawal thereof is respectfully requested.

CONCLUSION

Applicants respectfully submit that the claims are novel and nonobvious over the art and comply with the requirements of 35 U.S.C. §101 and §112. Accordingly, allowance is believed to be in order and an early notification to that effect would be appreciated.

Please direct all further communications in this application to:

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Respectfully submitted,

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By: _____



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